

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1033

AN ACT

AMENDING SECTIONS 43-403 AND 43-1022, ARIZONA REVISED STATUTES; RELATING TO
INDIVIDUAL INCOME TAX SUBTRACTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-403, Arizona Revised Statutes, is amended to
3 read:

4 43-403. Employment excluded from withholding

5 A. No amount shall be deducted or retained from:

6 1. Wages or salary paid to an employee of a common carrier when such
7 employee is a nonresident of this state as defined in section 43-104 and
8 regularly performs services both within and without this state.

9 2. Wages paid for domestic service in a private home.

10 3. Wages paid for casual labor not in the course of the employer's
11 trade or business.

12 4. Wages paid to part-time or seasonal employees whose services to the
13 employer consist solely of labor in connection with the planting,
14 cultivating, harvesting or field packing of seasonal agricultural crops,
15 except such employees whose principal duties are operating any
16 mechanically-driven device in such operations.

17 5. Wages or salary paid to a nonresident of this state who is:

18 (a) An employee of an individual, fiduciary, partnership, corporation
19 or limited liability company having property, payroll and sales in this
20 state, or of a related entity having more than fifty per cent direct or
21 indirect common ownership.

22 (b) Physically present in this state for less than sixty days in a
23 calendar year for the purpose of performing a service that will benefit the
24 employer or the related entity. For purposes of determining the number of
25 days of service in this state, days spent in the following activities are not
26 included:

27 (i) In transit.

28 (ii) Engaging in personal activities.

29 (iii) Participating in training or professional development activities
30 or attending meetings that are not directly connected to the Arizona
31 operations of the employer or the related entity.

32 6. COMPENSATION PAID TO A MEMBER OF THE ARMED FORCES OF THE UNITED
33 STATES FOR ACTIVE SERVICE.

34 B. In addition to the exemptions from the withholding provisions
35 contained in subsection A of this section, because of the temporary nature of
36 such employment, no amount shall be deducted or retained from wages paid to a
37 nonresident of this state engaged in any phase of motion picture production
38 when, prior to the time of payment of such wages, an application is made by
39 the employer to the department, on forms prescribed by the department, for an
40 exemption from the withholding provisions of this section and the department
41 determines that the nonresident would be allowed a credit under section
42 43-1096 against all of the taxes upon such wages imposed by this chapter.

43 C. Subsection A, paragraph 5 of this section does not apply to a
44 nonresident employee who is in this state solely for athletic or
45 entertainment purposes.

1 D. Notwithstanding subsection A, paragraph 5 of this section:

2 1. The nonresident employee may elect to have withholding deducted in
3 the manner prescribed by section 43-401, subsection F and the employer shall
4 withhold tax pursuant to that election.

5 2. The employer may elect to withhold tax from the nonresident
6 employee before the sixty day limitation has elapsed.

7 E. NOTWITHSTANDING SUBSECTION A, PARAGRAPH 6 OF THIS SECTION, A MEMBER
8 OF THE ARMED FORCES OF THE UNITED STATES MAY ELECT TO HAVE WITHHOLDING
9 DEDUCTED IN THE MANNER PRESCRIBED BY SECTION 43-401, SUBSECTION F AND THE
10 EMPLOYER SHALL WITHHOLD TAX PURSUANT TO THAT ELECTION.

11 Sec. 2. Section 43-1022, Arizona Revised Statutes, is amended to read:
12 43-1022. Subtractions from Arizona gross income

13 In computing Arizona adjusted gross income, the following amounts shall
14 be subtracted from Arizona gross income:

15 1. The amount of exemptions allowed by section 43-1023.

16 2. Benefits, annuities and pensions in an amount totaling not more
17 than two thousand five hundred dollars received from one or more of the
18 following:

19 (a) The United States government service retirement and disability
20 fund, retired or retainer pay of the uniformed services of the United States,
21 the United States foreign service retirement and disability system and any
22 other retirement system or plan established by federal law.

23 (b) The Arizona state retirement system, the corrections officer
24 retirement plan, the public safety personnel retirement system, the elected
25 officials' retirement plan, an optional retirement program established by the
26 Arizona board of regents under section 15-1628, an optional retirement
27 program established by a community college district board under section
28 15-1451 or a retirement plan established for employees of a county, city or
29 town in this state.

30 3. A beneficiary's share of the fiduciary adjustment to the extent
31 that the amount determined by section 43-1333 decreases the beneficiary's
32 Arizona gross income.

33 4. The amount of any distributions from an individual retirement
34 account as provided for in section 408 of the internal revenue code or from a
35 qualified retirement plan of a self-employed individual as provided for in
36 section 401 of the internal revenue code to the extent that total adjustments
37 made pursuant to this paragraph in all tax years do not exceed the total of
38 all contributions made by the taxpayer to such plans prior to December 31,
39 1975, which were included in computing Arizona taxable income.

40 5. The amount of income on an installment receivable which is
41 recognized pursuant to the internal revenue code and which has already been
42 recognized on the death of the taxpayer for purposes of this title for tax
43 years ending before January 1, 1990.

1 6. Interest income received on obligations of the United States, less
2 any interest on indebtedness, or other related expenses, and deducted in
3 arriving at Arizona gross income, which were incurred or continued to
4 purchase or carry such obligations.

5 7. The amount of any income tax refunds which were received from
6 states other than Arizona and which were included as income in computing
7 federal adjusted gross income.

8 8. Annuity income included in federal adjusted gross income pursuant
9 to section 72 of the internal revenue code if the first payment with respect
10 to such annuity was received prior to December 31, 1978.

11 9. The excess of a partner's share of income required to be included
12 under section 702(a)(8) of the internal revenue code over the income required
13 to be included under chapter 14, article 2 of this title.

14 10. The excess of a partner's share of partnership losses determined
15 pursuant to chapter 14, article 2 of this title over the losses allowable
16 under section 702(a)(8) of the internal revenue code.

17 11. The amount by which the adjusted basis of property described in
18 this paragraph and computed pursuant to this title and the income tax act of
19 1954, as amended, exceeds the adjusted basis of such property computed
20 pursuant to the internal revenue code. This paragraph shall apply to all
21 property which is held for the production of income and which is sold or
22 otherwise disposed of during the taxable year other than depreciable property
23 used in a trade or business.

24 12. The amount allowed by section 43-1024 for amortization, by a
25 qualified defense contractor certified by the department of commerce under
26 section 41-1508, of a capital investment for private commercial activities.

27 13. The amount of gain included in federal adjusted gross income on the
28 sale or other disposition of a capital investment that a qualified defense
29 contractor has elected to amortize pursuant to section 43-1024.

30 14. The amount allowed by section 43-1025 for contributions during the
31 taxable year of agricultural crops to charitable organizations.

32 15. The portion of any wages or salaries paid or incurred by the
33 taxpayer for the taxable year that is equal to the amount of the federal work
34 opportunity credit, the empowerment zone employment credit, the credit for
35 employer paid social security taxes on employee cash tips and the Indian
36 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
37 and 1396 of the internal revenue code.

38 16. The amount of prizes or winnings less than five thousand dollars in
39 a single taxable year from any of the state lotteries established and
40 operated pursuant to title 5, chapter 5, article 1, except that all such
41 winnings before March 22, 1983, including periodic distributions from such
42 winnings made after March 22, 1983, may be subtracted.

43 17. The amount of exploration expenses that is determined pursuant to
44 section 617 of the internal revenue code, that has been deferred in a taxable
45 year ending before January 1, 1990 and for which a subtraction has not

1 previously been made. The subtraction shall be made on a ratable basis as
2 the units of produced ores or minerals discovered or explored as a result of
3 this exploration are sold.

4 18. The amount included in federal adjusted gross income pursuant to
5 section 86 of the internal revenue code, relating to taxation of social
6 security and railroad retirement benefits.

7 19. To the extent not already excluded from Arizona gross income under
8 ~~section 112 of~~ the internal revenue code, compensation received for active
9 service as a member of the armed forces of the United States ~~for any month~~
10 ~~during any part of which the member served~~, INCLUDING COMPENSATION FOR
11 SERVICE in a combat zone as determined under section 112 of the internal
12 revenue code ~~or in an area given the same treatment as a combat zone for~~
13 ~~purposes of section 112 of the internal revenue code.~~

14 20. The amount of unreimbursed medical and hospital costs, adoption
15 counseling, legal and agency fees and other nonrecurring costs of adoption
16 not to exceed three thousand dollars. In the case of a husband and wife who
17 file separate returns, the subtraction may be taken by either taxpayer or may
18 be divided between them, but the total subtractions allowed both husband and
19 wife shall not exceed three thousand dollars. The subtraction under this
20 paragraph may be taken for the costs that are described in this paragraph and
21 that are incurred in prior years, but the subtraction may be taken only in
22 the year during which the final adoption order is granted.

23 21. The amount authorized by section 43-1027 for the taxable year
24 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

25 22. With respect to a medical savings account established pursuant to
26 section 43-1028:

27 (a) An eligible individual may subtract:

28 (i) The amount of contributions made by the individual's employer
29 during the taxable year to the individual's medical savings account pursuant
30 to section 43-1028 to the extent that the employer contributions are included
31 in the individual's federal adjusted gross income.

32 (ii) The amount deposited by the individual in the account during the
33 taxable year to the extent that the individual's contributions are included
34 in the individual's federal adjusted gross income.

35 (b) The individual's employer may subtract the amount of contributions
36 made by the employer to a medical savings account established on the
37 individual's behalf to the extent that the contributions are not deductible
38 under the internal revenue code.

39 23. The amount by which a net operating loss carryover or capital loss
40 carryover allowable pursuant to section 43-1029, subsection F exceeds the net
41 operating loss carryover or capital loss carryover allowable pursuant to
42 section 1341(b)(5) of the internal revenue code.

43 24. Any amount of qualified educational expenses that is distributed
44 from a qualified state tuition program determined pursuant to section 529 of

1 the internal revenue code and that is included in income in computing federal
2 adjusted gross income.

3 25. Any item of income resulting from an installment sale that has been
4 properly subjected to income tax in another state in a previous taxable year
5 and that is included in Arizona gross income in the current taxable year.

6 26. The amount authorized by section 43-1030 relating to holocaust
7 survivors.

8 27. The amount authorized by section 43-1031 for constructing an energy
9 efficient residence.

10 28. An amount equal to the depreciation allowable pursuant to section
11 167(a) of the internal revenue code for the taxable year computed as if the
12 election described in section 168(k)(2)(C)(iii) of the internal revenue code
13 had been made for each applicable class of property in the year the property
14 was placed in service.

15 29. With respect to property that is sold or otherwise disposed of
16 during the taxable year by a taxpayer that complied with section 43-1021,
17 paragraph 26 with respect to that property, the amount of depreciation that
18 has been allowed pursuant to section 167(a) of the internal revenue code to
19 the extent that the amount has not already reduced Arizona taxable income in
20 the current or prior taxable years.

21 30. With respect to property for which an adjustment was made under
22 section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of
23 the adjustment pursuant to section 43-1021, paragraph 27 in the year in which
24 the amount was adjusted under section 43-1021, paragraph 27 and in each of
25 the following four years.

26 31. ANY COMPENSATION, BONUSES AND ALLOWANCES RECEIVED BY THE TAXPAYER
27 DURING THE TAXABLE YEAR FOR SERVICE AS A MEMBER OF THE ARIZONA NATIONAL
28 GUARD, BUT NOT TO EXCEED FIVE THOUSAND DOLLARS.

29 Sec. 3. Effective date

30 Sections 43-403 and 43-1022, Arizona Revised Statutes, as amended by
31 this act, are effective and apply to taxable years beginning from and after
32 December 31, 2006.